IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1609 OF 2005.

Kailas Dhondu Mali and others. ... Appellants.
Versus.
Mohan Yeshwant Pande. ... Respondent.

Shri Kishor Patil i/by Shri P.N.Joshi for the Appellants.

CORAM : ABHAY S.OKA, J.

DATED : 29th MARCH, 2006.

P.C.:

1. Heard the learned Advocate appearing for the Appellants. Leave to amend the Memorandum of Appeal by incorporating additional questions of law is granted.

2. Following substantial questions of law arise:

i) Whether the Courts below were justified in passing a Decree of damages against the Appellant when in case of damages on the ground of defamation, the Plaintiff has to plead and prove that the Defendant had acted with improper motive and that his act was of malicious nature and in the present case there was neither sufficient pleadings nor evidence for decreeing the suit ?

ii) Whether the Courts below were justified to decree the suit when essential ingredients to prove defamation in Civil Proceedings were not fulfilled by the Plaintiff as the Plaintiff has to plead and prove that (i) alleged words in publication were of defamatory nature, (ii) that the said publication/news had referred the name of Plaintiff, (iii) and that the news was maliciously published ?

iii) Whether the Courts below were justified in decreeing the suit when Plaintiff had failed to plead and prove that the publication was done by the Appellant/Defendant with an intention to harm or knowing or having reason to believe that such news/publication will harm the reputation of the Plaintiff?

3. The Appeal is admitted on the said substantial questions of flaw.

4. Printing is dispensed with. The Appellants are directed to file private paper book along with sufficient number of copies thereof within a period of one year from today. If the paper book is not filed within the stipulated period, the Appeal will stand

dismissed for want of prosecution without further reference to the Court.

5. In addition to service through Court, the Advocate for the Appellants are directed to serve private notice to the Respondents by Registered Post A.D. and/or Speed Post A.D. and/or by hand delivery. Hamdast allowed.

Judge.